IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1957 OF 2005
IN
EXECUTION APPLICATION (L) NO.274 OF 2005
IN
SUMMARY SUIT NO.5853 OF 1998

M/s.Gwalior Oils Mills Plaintiff

versus

M/s.Geekay Exim (India) Ltd. Defendant

and

Oriental Bank of Commerce Ltd. Applicant

Mr.Rashab Shah i/by B.Amin & Co. for plaintiff.

Mr.S.Purohit i/by Wadia Ghandhy & Co. for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 14th July 2005

PC :

1. The plaintiff-decree holder applies for withdrawal of the Notice of Motion with liberty to take out appropriate proceedings for the reliefs that are claimed in the present Notice of Motion. Leave granted. Notice of Motion is allowed to be withdrawn with liberty as prayed. Mr.Shah appearing for the decree-holder next submits that in pursuance of the order passed by

this Court on earlier notices of motion, a sum of Rs.8.00 lakh (Rs.Eight lakh only) deposited by the applicant in this Court, would be withdrawn and the moment the sum is withdrawn the proceedings in execution are likely to become infructuous. Mr.Purohit opposes this request and states that although Notice of Motion was not the appropriate remedy, once again same remedy is resorted to and such litigant does not deserve any discretionary relief. In my view, interest of justice would be served if Prothonotary and Senior Master of this court is directed to permit withdrawal of this amount by applicant of Rs.8.00 lakh (Rs.Eight lakh only) after 21st July 2005.

(S.C.DHARMADHIKARI, J.)